IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

THURSDAY, THE 29TH NOVEMBER 2007 / 8TH AGRAHAYANA 1929

WP(C).No. 33393 of 2007(A)

PETITIONER:

D.BHUVANANDRAN NAIR, AGED 54 YEARS,
SON OF P.DAMODARAN NAIR, CHIEF SOIL CHEMIST,
CENTRAL SOIL TESTING LABORATORY, PAROTTUKONAM,
NALANCHIRA P.O., THIRUVANANTHAPURAM.

BY ADV. SRI.A.V.THOMAS
SRI.JOJO GEORGE
SRI.NIDHI SAM JOHN

RESPONDENTS:

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1. **STATE OF KERALA REPRESENTED BY THE SECRETARY TO GOVERNMENT, AGRICULTURE DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.**

2. **THE DIRECTOR OF AGRICULTURE, AGRICULTURAL DIRECTORATE, THIRUVANANTHAPURAM.**

3. **DEPARTMENTAL PROMOTION COMMITTEE (HIGHER) FOR AGRICULTURAL DEPARTMENT, REPRESENTED BY ITS CHAIRMAN, THIRUVANANTHAPURAM.**

4. **K.M.MATHEW, PRINCIPAL AGRICULTURAL OFFICER, KANNUR.**

BY GOVERNMENT PLEADER SRI. BEJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI, J.

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W.P.(C)NO.33393 OF 2007

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Dated this the 29th day of November 2007

JUDGMENT

The petitioner is working as a Chief Soil Chemist in the Central Soil Testing Laboratory in the rank of a Deputy Director in the Agriculture Department. He aspires for promotion to the post of Joint Director (Agriculture). The Departmental Promotion Committee did not consider his case on the ground that disciplinary action was pending against the petitioner pursuant to Ext.P5 memo of charges. Learned counsel for the petitioner refers to Ext.P9, a communication sent by the Director of Agriculture to the Government on 17.3.2007, wherein after pointing out the relevant facts, request was made to include the petitioner also in the select list for promotion to the cadre of Joint Director of Agriculture. By Ext.P4 judgment, this Court had directed the Government to finalise the disciplinary proceedings against the petitioner. Apparently that has also not been done so far. In the meanwhile the petitioner is due to retire on 31.12.2007.

2.Learned counsel for the petitioner refers to Ext.P18 judgment where under in similar circumstances, the government was directed to consider the incumbent's claim for promotion under Rule 31(a)(i)

of Part II of the KS&SSR. Apparently the said direction in Ext.P18 was taken note of and orders of provisional promotion were passed in the case of the petitioner in Ext.P18 judgment, as evidenced by Ext.P20.

3. After having heard the learned Government Pleader also, I am of the view that the petitioner's case for provisional promotion to the post of Joint Director of Agriculture should be considered, taking note of the fact that the disciplinary proceedings have not been completed in spite of the direction in Ext.P14 judgment and further taking note of the fact that the Director of Agriculture has recommended that the petitioner's case should be considered, as per Ext.P9.

4. In the result, the writ petition is disposed of directing the first respondent to pass orders as regards the petitioner's claim for provisional promotion within a period of two weeks from the date of receipt of a copy of this judgment. The petitioner shall produce a certified copy of this judgment along with a copy of the writ petition immediately on receipt of the same.

V.GIRI, JUDGE

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